

# HOUSE BILL No. 5710

July 16, 2014, Introduced by Rep. McMillin and referred to the Committee on Criminal Justice.

A bill to amend 1966 PA 189, entitled

"An act to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts,"

(MCL 780.651 to 780.659) by adding section 2b.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 2B. (1) A PERSON SHALL NOT USE A SURVEILLANCE DEVICE TO  
2        TRACK A MOBILE DEVICE OR CAPTURE OR COLLECT A MOBILE DEVICE USER'S  
3        LOCATION, CONVERSATION, TEXT MESSAGE, WEB BROWSER ACTIVITY, OR THE  
4        UNIQUE IDENTIFIER OF A MOBILE DEVICE WITHOUT FIRST OBTAINING A  
5        SEARCH WARRANT UNDER THIS ACT AUTHORIZING THE USE OF THAT DEVICE  
6        FOR THAT PURPOSE.

7        (2) AN APPLICATION FOR A WARRANT UNDER THIS SECTION SHALL  
8        CONTAIN A DESCRIPTION OF THE CAPABILITIES OF THE SURVEILLANCE

1 DEVICE AND THE MANNER IN WHICH THAT SURVEILLANCE DEVICE WILL BE  
2 DEPLOYED.

3 (3) A PERSON WHO OBTAINED DATA AS DESCRIBED IN SUBSECTION (1)  
4 SHALL NOTIFY EVERY PERSON BY UNITED STATES MAIL WHOSE DATA WAS  
5 COLLECTED, INTENTIONALLY OR UNINTENTIONALLY, WITHOUT BEING NAMED IN  
6 A WARRANT ISSUED UNDER THIS SECTION NOT MORE THAN 30 DAYS AFTER  
7 OBTAINING THAT DATA. A NOTICE MAILED UNDER THIS SUBSECTION SHALL  
8 CONTAIN A DESCRIPTION AND DISPOSITION OF THE DATA THAT WAS  
9 COLLECTED.

10 (4) AN INDIVIDUAL WHO INTENTIONALLY VIOLATES THIS SECTION IS  
11 GUILTY OF A CRIME AS FOLLOWS:

12 (A) FOR A FIRST OFFENSE, THE INDIVIDUAL IS GUILTY OF A  
13 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR  
14 A FINE OF NOT MORE THAN \$500.00, OR BOTH.

15 (B) FOR A SECOND OR SUBSEQUENT OFFENSE, THE INDIVIDUAL IS  
16 GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4  
17 YEARS OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

18 (5) AS USED IN THIS SECTION, "SURVEILLANCE DEVICE" MEANS A  
19 DEVICE INTENDED TO BE USED BY A PERSON OTHER THAN A TELEPHONE  
20 SERVICE PROVIDER TO INTERCEPT ANY DATA OR VOICE COMMUNICATIONS,  
21 INCLUDING COMMUNICATIONS TO OR FROM CELLULAR TELEPHONES OR OTHER  
22 MOBILE DEVICES.